

**N.D.A.G. Letter to Wheelihan (Jan. 24, 1986)**

January 24, 1986

Mr. David M. Wheelihan  
Ellendale City Attorney  
59 First Avenue South  
P.O. Box 39  
Ellendale, ND 58436

Dear Mr. Wheelihan:

Thank you for your letter of January 8, 1986, inquiring as to whether a municipality which has granted itself a franchise for the operation of a cable television system may finance the construction of that system by the use of revenue bonds.

North Dakota law, as found at N.D.C.C. § 40-35-20, allows the use of revenue bonds for a municipal undertaking which are used in connection with some seven specific projects. In reviewing the seven specific projects listed in the statute, the subject of cable television is not to be found. As such, the only conclusion to be drawn is that revenue bonds may not be used to finance the construction of a municipal television project.

It is possible that the provisions of the Municipal Industrial Development Act, N.D.C.C. Ch. 40-57, may be available for this project.

However, there are some serious restrictions on the arrangements needed to comply with N.D.C.C. Ch. 40-57, including the requirement that the city act only as lessor with respect to the operation of the project. Thus, it is unclear whether this is a legal or usable alternative. Thus, the availability of this provision for the city of Ellendale is a matter which must be further discussed with appropriate bond counsel.

Sincerely,

Nicholas J. Spaeth

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